IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 1228/2002

PETITIONER : Smt. Lata Dhruv
W/o Baherik Ram Druv,
Aged about 33 years,
R/o village Dargahan
Gram Panchayat:Kurmatarai,
Tehsil & Distt.Dhamtari (CG).

VERSUS

RESPONDENTS :

1) State of Chhattisgarh
Through the Secretary,
Panchyat Department,DKS Bhavan,
Raipur (CG).

2) The Additional Collector,
Dhamtari, Distt:Dhamtari.

3) The Sub-Divisional Officer,
Dhamtari, Distt.Dhamtari.

4) Gram Panchayat Kurmatarai,
Through the Secretary,
Gram Panchayat Kurmatari,
Tehsil & Distt.Dhamtari.

5) The Chief Executive Officer,
Janpad Panchayat,Dhamtari,
Distt. Dhamtari.

P.R. No. 1231/02 dated 9.10.02

Presented by Shri D.T. Verma

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(25)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 1223 & सन् 2002

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

05.07.2002

Shri P.Diwakar, learned counsel for the petitioner.

Shri Sanjay K.Agrawal, learned Dy.Advocate-General for the State.

Admittedly, the petitioner was removed as a Sarpanch after an enquiry as contemplated under sub-section (1) of Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. However, while passing the order of removal, the Prescribed Authority had directed that the operation of its order shall remain stayed till 22.6.2002.

Aggrieved with the order of removal, the petitioner preferred an appeal in which a prayer for interim order was also made. The said prayer, however was rejected on 18.6.2002 on the ground that stay could not have been granted by the Prescribed Authority while passing an order of removal.

It is the contention of Shri Diwakar that since the Prescribed Authority had stayed the operation of the order of removal till 22.6.2002 the Appellate Authority was not right in vacating that order or in the alternative it should have allowed to continue that order till atleast 22.6.2002. At any rate, it was

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मामला क्रमांक ..... सन् 200

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contended that the Appellate Authority was not justified in not staying the operation of the order passed by the Prescribed Authority.

Having heard learned counsel, the Court is not inclined to entertain this writ petition, as in its opinion, no error has been committed by the Appellate Authority. Sub-section (2) of Section 40 of the Act clearly lays down that a person who has been removed under sub-section (1) shall forthwith cease to be a member of any other Panchayat of which he is a member and that he shall also be disqualified for a period of six years. Obviously, therefore, the intention of statute is that the order of removal takes effect the moment it is passed.

In this view of the matter, the Appellate Authority was right in not staying the operation of the impugned order. Accordingly, the petition fails and is dismissed.

It is, however, hoped that the Appellate Authority will dispose of the appeal on its own merits within a reasonable period.

Sd/-
P.C.Naik
Judge

पीठ सहायक